

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Fine, et al.

Application No.: 09/762,000

Group Art Unit: 3751

Filed: 1/17/2001

Examiner: Phillips, C.

Title: HOT WATER FAUCET LOCK

Attorney Docket No.: 20-073-JF

Assistant Commissioner for Patents
Washington, D.C. 20231

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Dear Sir:

REMARKS

In response to the Office Action of October 15, 2001, the following arguments and amendments are respectfully submitted.

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Claim Rejections over Nachbauer under 35 USC §102(b)

The Examiner rejected claims 1, 5, 6, 9, and 10 as anticipated by Nachbauer, (U.S. Reg. No. 5,927,111). The Examiner pointed out that Nachbauer discloses the base at 14 and the bracket at 11 as best seen in Fig.3.

Nachbauer teaches a housing 11 & 12 to be locked around an outdoor faucet and supported by a wall mounting means 14. In response, the Applicant amends claims 1, 7, 9 and 10. A copy of the amended claims showing changes as well as a clean copy of amended claims is provided. The amendments further narrow claims 1, 7, 9 and 10 to clarify that the invention is directed to a lock that operates on a specific type of faucet handles, which are wrist blade handles since this is the type of faucet handles used in facilities that serve disabled individuals. This is

because some disabilities prevent affected individuals from being able to rotate a round or cross shaped faucet handle due to lack of control in the fingers. However, such people can use their entire hand to push on a wrist blade handle and thus have a capability to use the faucet. This limitation does not constitute new matter since the use of the invention together with a wrist blade handle is disclosed in the drawings and in the Specification on page 2, line 26; page 3, line 1. Nachbauer does not teach use of its disclosed device with wrist blade handles on faucets.

Furthermore, the amendments point out that the invention's purpose is to regulate the degree of freedom of rotation of the wrist blade handle rather than to only fully prevent the use of the faucet. Naturally, one can adjust the bracket to fully lock the wrist blade handle and thereby prevent any use of the faucet. The Applicant stresses the ability to regulate the degree of freedom or rotation of the wrist blade handle since this feature has applications that are useful for disabled individuals. One example of such utility is the fact that the invention allows a disabled individual to partially open the hot water faucet without being in danger of opening it too much thus exposing himself to a danger of being burned by excessive amount of hot water coming out of the faucet. This regulating feature of the invention, clarified by the amendments to the claims, does not constitute new matter since it is disclosed in the Specification on page 3, lines 11-17. Here as well, Nachbauer does not teach any type of regulation of the degree of freedom of rotation of the faucet handle. Instead, Nachbauer teaches only an arrangement in which the faucet is fully secured from any operation.

Therefore, since Nachbauer does not teach a locking device that controls the degree of use of a wrist blade handle on a faucet, the Applicant hereby requests withdrawal of the 35 USC §102(b) rejection of claim 1 over Nachbauer. Furthermore, claims 5, 6, 9, and 10 are dependent

from claim 1 and as such have all the limitations of claim 1. Therefore, the Applicant hereby requests withdrawal of the 35 USC §102(b) rejection of claims 5, 6, 9, and 10 over Nachbauer.

Claim Rejections over Jones under 35 USC §102(b)

The Examiner rejected claims 1, 2, 4, 9, and 10 as anticipated by Jones, (U.S. Reg. No. 5,588,316). The Examiner pointed out that Jones discloses the base at 38 and the bracket at 30 adjustably attached thereto via 40.

In response, the Applicant amends claims 1, 4, 7, 9 and 10. A copy of the amended claims showing changes as well as a clean copy of amended claims is provided. As explained in detail above, the amendments clarify that the disclosed invention is directed to the regulation of the degree of use of the wrist blade handles. These features are not taught by Jones.

Jones teaches a device for prevention of use of round handles on faucets. Therefore, since Jones does not teach a locking device that controls the degree of use of a wrist blade handle on a faucet, the Applicant hereby requests withdrawal of the 35 USC §102(b) rejection of claim 1, 2, 4, 9 and 10 over Jones.

Claim Rejections over Jones under 35 USC §103(a)

The Examiner rejected claims 3, 7, 8, and 11-20 as obvious in light of Jones.

In response, the Applicant presents the following arguments and amends claims 1, 7, 11, 14, 17, 19, and 20. Claims 3, 7, and 8 are dependent of claim 1 and therefore encompass the limitations of amended claim 1. Also, claims 12-20 are dependent on claim 11 and, therefore, encompass the limitations of amended claim 11. The significance of these amendments is the

same as the one explained in detail above. These amendments further clarify that the Applicant's invention is directed to a locking device that controls the degree of use of a wrist blade handle on a faucet. These amendments do not represent new matter since these characteristics of the invention are shown in the drawings and are also discussed in the Specification on page 2, line 26; page 3, line 1; page 3, lines 11-17.

In light of the amendments to the claims, the Applicant respectfully submits that the *prima facie* case of obviousness cannot be made in this case. It is an established legal doctrine that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, not in Applicant's disclosure. *In re Vaek*, 947 F2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Neither Jones, nor the knowledge generally available to one of ordinary skill in the art, suggest or motivate to modify the reference to make a locking device that controls the degree of use of a wrist blade handle on a faucet.

"To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). The Applicant respectfully points out that the Examiner did not provide such a line of reasoning as to why the artisan would have found the claimed invention to be obvious in light of Jones.

The device disclosed by the Applicant works in a different manner from the one disclosed by Jones. In Jones, a wire frame encloses water faucet handles and thus prevents access to them. The Applicant on the other hand teaches a bracket positioned next to wrist blade handle.

Furthermore, the device disclosed by the Applicant has a function of controlling the degree of use of a wrist blade handle on a faucet. Jones does not disclose such function and does not suggest or motivate to have such function.

Additionally, Jones does not teach or suggest all the claim limitations. The amended independent claims 1 and 11 are not taught or suggested in Jones in that Jones does not teach or suggest building of a locking device that controls the degree of use of a wrist blade handle on a faucet. On the contrary, the Jones reference teaches a device that fully prevents access to faucet handles.

It is true that the Examiner's rejection is based on the original and not the amended claims. However, the Examiner, after making a determination that the original claims were obvious in light of Jones, had to then consider any evidence supporting the patentability of the claimed invention, such as any evidence in the specification or any other evidence submitted by the Applicant. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). It could hardly be disputed that the disclosure of the present invention made it clear and apparent that the invention is directed to a locking device that controls the degree of use of a wrist blade handle on a faucet. Such disclosure of limitations cannot be disregarded.

Therefore, in light of the entire record, the present invention is non-obvious in light of Jones since the prior art reference does not teach or suggest to make the disclosed invention and Jones does not teach or suggest all the limitations of the disclosed invention.

Furthermore, in light of the amendments to the claims, the prior art reference does not teach or suggest to make the claimed combination, and prior art does not teach or suggest all the limitations of the amended claims.

Moreover, the present invention represents a considerably simpler apparatus than the one disclosed in Jones. It has greater reliability since it has a lot less parts and components than prior art. The disclosed invention is considerably easier and cheaper to manufacture – a factor that would translate into greater success of the invention in the market place.

Correction of a Typo

The Applicant hereby enters an amendment to claims 12-20 to correct a typo in these claims to clarify that claims 12-20 are dependent from claim 11 and not from claim 10.

CONCLUSION

Reconsideration and further examination is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required for this amendment, or credit any overpayment, to Deposit Account No. 12-0111.

In the event that an extension of time is required to file this response, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 12-0111.

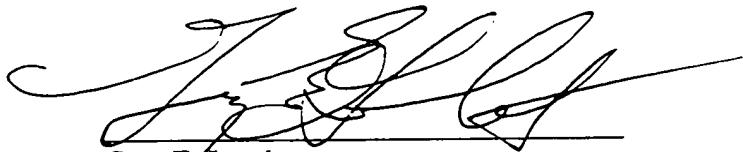
Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully

requested that the Examiner telephone Gary E. Lambert, Applicants' Attorney at (617) 720-0091 so that such issues may be resolved as expeditiously as possible.

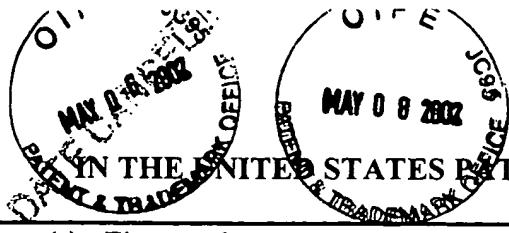
For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,


Date


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VERSION WITH MARKINGS TO SHOW CHANGES

1. (Amended) A faucet lock for use with a lavatory sink faucet having at least one water valve wrist blade control handle, said faucet lock comprising:
a base,
a bracket, having first and second ends thereof, wherein said first end is adjustably attached to said base such that said second end is positionable adjacent to said wrist blade control handle thereby regulating degree of freedom of rotation of [preventing] said wrist blade control handle [from opening said water valve, thus locking said water valve in a closed position,].
[wherein said faucet lock prevents small children, disabled persons and others from unauthorized use of said water valve.]
4. (Amended) The faucet lock as claimed in claim 1 wherein said base further comprises a plurality of said brackets for regulating degree of freedom of rotation [locking] of a plurality of said wrist blade control handles [water valves].
7. (Amended) The faucet lock as claimed in claim 1 wherein said bracket adjusts to limit

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rotation of said wrist blade control [faucet] handle for providing variable limited use of said wrist blade control handle [water valve].

9. (Amended) The faucet lock as claimed in claim 1 wherein said wrist blade control handle is a hot water wrist blade control handle.

10. (Amended) The faucet lock as claimed in claim 1 wherein said bracket comprises a flexible and positionable material wherein said faucet is locked when said bracket is positioned around said wrist blade control handle preventing said wrist blade control handle from opening said water valve.

11. (Amended) A faucet lock for use with a lavatory sink having at least one water valve wrist blade control handle, said faucet lock comprising:

a base,

a first bracket attached to said base,

a second bracket having first and second ends thereof, wherein said first end adjustably attaches to said first bracket such that said second end is positionable adjacent to said wrist blade control handle thereby regulating degree of freedom of rotation of [preventing] said wrist blade control handle [from opening said water valve, thus locking said water valve in a closed position,].

[wherein said faucet lock prevents small children, disabled persons and others from unauthorized use of said water valve.]

12. (Amended) The faucet lock as claimed in claim 11 [10] wherein said base is disposed on a rear portion of said sink.

13. (Amended) The faucet lock as claimed in claim 11 [10] wherein said base is positioned rearward of said sink.

14. (Amended) The faucet lock as claimed in claim 11 [10] wherein said base further comprises a plurality of said brackets for regulating degree of freedom of rotation [locking] of a plurality of said wrist blade control handles [water valves].

15. (Amended) The faucet lock as claimed in claim 11 [10] wherein said bracket attaches to said base at variable heights.

16. (Amended) The faucet lock as claimed in claim 11 [10] wherein said bracket attaches to said base at variable lengths.

17. (Amended) The faucet lock as claimed in claim 11 [10] wherein said bracket adjusts to limit rotation of said wrist blade control [faucet] handle for providing variable limited use of said wrist blade control handle [water valve].

18. (Amended) The faucet lock as claimed in claim 11 [10] wherein said faucet lock further comprises a second lock securing said second end of said bracket in said position adjacent said control handle.

19. (Amended) The faucet lock as claimed in claim 11 [10] wherein said wrist blade control handle is a hot water wrist blade control handle.

20. (Amended) The faucet lock as claimed in claim 11 [10] wherein said bracket comprises a flexible and positionable material wherein said faucet is locked when said bracket is positioned around said wrist blade control handle preventing said wrist blade control handle from opening said water valve.